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Sun Life Family Health Center

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

D.M.W., a minor, by and through his natural parents; Hayley Holland-Honea and Alyan Watt, individually,

Case No.:

Plaintiffs.

NOTICE OF REMOVAL

V.

Banner Health, an Arizona corporation d/b/a Banner Casa Grande Medical Center; Daniel Rowland, M.D., a Nebraska resident; Sun Life Family Health Center, an Arizona corporation d/b/a Sun Life Center For Women; Charlotte Sono-Petty, R.N., an Arizona resident; Judy Quick, R.N., an Arizona resident; Does I-X; Corporations I-X; and Partnerships I-X.

Defendants.

PLEASE TAKE NOTICE that the civil action [*D.M.W.*], a minor, by and through his natural parents, et al. v. Banner Health, an Arizona corporation d/b/a Banner Casa Grande Medical Center, et al., Pinal County Superior Court case no. CV2017-01294, is

1 hereby removed to this Court by the United States of America pursuant to 42 U.S.C.
2 § 233(c). The United States submits this Notice of Removal for the following reasons:

3 1. On or about July 11, 2017, Plaintiffs filed a Complaint alleging medical
4 negligence against Banner Heath, Daniel Rowland, M.D., Sun Life Family Health Center,
5 an Arizona corporation d/b/a Sun Life Center for Women, Charlotte Sono-Petty, R.N.,
6 and Judy Quick, R.N., Defendants in the Superior Court of the State of Arizona in and for
7 the County of Pinal, case number CV2017-01294.

8 2. James G. Touhey, Jr., Director, Torts Branch, Civil Division, United States
9 Department of Justice, has certified that at the time of the conduct alleged in the
10 Complaint, Sun Life Family Health Center was a federally deemed community health
11 center by operation of the Federally Supported Health Centers Assistance Act, 42 U.S.C.
12 § 233(g)-(n), was acting within the scope of its deemed federal employment as an
13 employee of the Public Health Service, and is covered under the Federal Tort Claims Act
14 (28 U.S.C. § 2675 et seq.) pursuant to 42 U.S.C. § 233(g). The Certification of Scope of
15 Employment is attached hereto as Exhibit 1.

16 3. Mr. Touhey has further certified that at the time of the conduct alleged in
17 the Complaint, Dr. Rowland was an employee of Sun Life Family Health Center, and was
18 acting within the scope of his deemed federal employment as an employee of the Public
19 Health Service at the time of the incident giving rise to the state court lawsuit. *See*
Exhibit 1.

20 4. The United States has the statutory authority to remove this action to
21 federal court at any time prior to trial. 42 U.S.C. § 233(c).

22 5. As required by LRCiv 3.6(a), a copy of the docket from the state court
23 action is attached as Exhibit 2.

24 6. As required by 28 U.S.C. § 1446(a) and LRCiv 3.6(b), the United States is
25 attaching as Exhibit 3 a copy of all pleadings and other documents that have been filed in
26 the state court action, and is attaching a verification of those records by counsel as
27 Exhibit 4.

7. A copy of this Notice of Removal of Civil Action is being served upon the Plaintiffs and Defendants, and a copy shall be filed with the Clerk of the Pinal County Superior Court as required by 28 U.S.C. § 1446(d) and LRCiv 3.6(a).

WHEREFORE, the above-captioned case is removed from the Pinal County Superior Court, State of Arizona, to the United States District Court for the District of Arizona pursuant to 42 U.S.C. § 233(c).

Respectfully submitted this 8th day of February, 2018.

ELIZABETH A. STRANGE
First Assistant United States Attorney
District of Arizona

s/ Katherine R. Branch
KATHERINE R. BRANCH
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2018, I electronically transmitted the attached document to the Clerk's Office using the CM/ECT system for filing, and mailed a copy of the foregoing document to the following:

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s/Brian Wolfe
United States Attorney's Office